

**ZONING BOARD OF ADJUSTMENT  
JANUARY 8, 2014 MEETING  
DRAFT MINUTES**

Board members present included Chairman Christopher Carley, David Parker, Rob Harrison Jr., Nicholas Wallner and James Monahan. Also present was Zoning Administrator Craig Walker and Clerk of the Board Rose Fife.

**21-13** **Carolyn A. Parker for VSH Realty, Cumberland Farms:** (Request for Rehearing) (Recessed until February 5, 2014 pending action on Report to Council) Applicant wishes to install a scroller type sign and requests Variances to Article 28-7-7, Signs Prohibited Under this Ordinance:

- 1) Section (a), to permit a sign which has parts and surfaces that physically or visually move when signs that have parts or surfaces that physically move are prohibited,
- 2) Section (r), to permit an electronically activated changeable message sign (EMC) when EMC signs are prohibited in the City of Concord,

for property at 47 Fisherville Road in a CG General Commercial District.

**40-13** **Barlo Signs for Carlsons Motorcorp:** (Recessed until February 5, 2014 pending action on Report to Council) Applicant requests the Zoning Board overturn the Zoning Administrator's determination that the use of a remotely programmable electronic message sign for variable background illumination is a use that is not permitted under the City of Concord's Zoning Ordinance for property at 13 Manchester Street in a GWP Gateway Performance District.

**41-13** **Barlo Signs for Baron's:** (Recessed until February 5, 2014 pending action on Report to Council) Applicant requests the Zoning Board overturn the Zoning Administrator's determination that the use of a remotely programmable electronic message sign for variable background illumination is a use that is not permitted under the City of Concord's Zoning Ordinance for property at 350 Loudon Road in a GWP Gateway Performance District.

Walker gave Board copy of the report going Council for the Sign Ordinance changes.

**57-13** **William E. Merisotis:** Applicant wishes to construct a 24 foot by 24 foot garage and requests variances to Article 28-4-1(h), Table of Dimensional Regulation to permit a building with a side setback of 18.5 feet where a side setback of 40 feet is required and a front setback of 25.7 feet where a 50 foot setback is required for property at 11 Currier Road in an RO Residential Open Space District.

Applicant requested that the case be recessed until February 5, 2014. The applicant submitted a letter explaining that a question regarding drainage had been raised by an abutter and that he was unable to obtain the necessary information to address the question in time for the meeting because his surveyor is out of town. The applicant respectfully requests a one month recess to allow time to gather the necessary information.

A motion to recess the case was made by Parker, second by Harrison and passed by a unanimous vote.

**58-13** **Michael S. Benton & Executive Health and Sports Center Inc. for Sarandis Karathanasis:** Applicant wishes to install an off-site free standing sign at the intersection of Garvins Falls Road and Manchester Street related to the use at 10 Garvins Falls Road and requests:

- 1) A Variance to Article 28-6-7, Signs Prohibited Under this Ordinance, Section (m), to permit a sign to be placed on a lot that is not related to the principal use or uses of the premises on which the sign is located,
  - 2) A Variance to Article 28-6-9(c), Permitted Freestanding Signs, Section, (1), to permitted a second freestanding sign on a lot where only 1 freestanding sign would otherwise be permitted,
  - 3) A Variance to Article 28-6-9(c), Permitted Freestanding Signs, Section, (1)(a), to permit second freestanding sign, up to 40 square feet in size when no sign area is allocated,
- All for property at 72 Manchester Street in a CH Highway Commercial District.

Testified: Tim Sullovan of Barlo Signs; Mike Benson the owner of Executive Health & Sports Center Inc.; Justin Benton, General Manager of Executive Health & Sports Center Inc.

Tim Sullivan: Formerly the Concord Racquetball Club, this facility is the 70,000 s.f. They are developing a health and wellness campus similar to their Manchester facility. The facility will house a health club; physical therapy, walk in medical facility as well as doctor's offices. They have been working with the Planning Division of the Community Development Department. They are installing a right turn lane on Manchester Street at the Garvins Falls Road entrance. They would like to identify the property properly. It is a sharp turn onto Garvins Falls Road from Manchester Street. The corner is very hard to see. They would like an off premises sign on the easement of The Red Blazer's property. The sign will be 39.8 s.f. and 15.5' high. It will be a single pole sign. There is not much visual impact at the ground level. The primary tenant will be the fitness complex. There will be space for 3 additional tenants to add to the sign. It will be within a commercial zone. Is not out of keeping with other signs in the area. The size is within the Ordinance. Garvins Falls Road is in a residential zone. It is an out of place area to house this facility. They need the identification. They host a number of events. They have a swim team and events. Families from out of town come. They host tennis tournaments which also bring in out of town visitors. They would like to identify themselves at that corner of Manchester Street and Garvins Falls Road. Feel it is within public's best interest and will improve traffic at that corner. If granted, it will not alter character of the surrounding properties. The sign is shorter and smaller than most signs in the area.

Mr. Benson: They have a video, and showed it, that describes their Manchester location. They are a community wellness facility largely driven by health care reform. They are not just refurbishing the old health club; they are establishing a community wellness facility. There will be multiple tenants at this location that are wellness, fitness and medical orientated.

Carley asked if the right hand turn lane was a new development. Mr. Benson: Yes. Carley asked if the City ask them to establish that right hand turn lane. Mr. Benson: Yes. Carley asked how the right hand turn lane affects people's ability to locate facility. Mr. Benson explained. There is quite a bit of a traffic issues as it is now.

Carley clarified that one variance is for off-site signage variance and the others are for a 2<sup>nd</sup> freestanding sign and the size of the sign as no sign is allowed. Walker explained. The sign has to be related to the use on the property. This property is only be allowed to have one sign and whereas there is no provision for a 2<sup>nd</sup> freestanding sign, any size would require this variance request. Even if a second sign were allowed the maximum size would be 40 s.f.

Monahan asked if the sign was on the Red Blazer's property. (Yes.) Do you think you will need to be back before the Board with any other issues? (They do not believe so.) Wallner was concerned with traffic patterns and a sign with 4 different tenants on it, which is very distracting. (Barlo stated that there is already one Dunkin Donuts sign which is high up and The Red Blazer sign is there, so this shouldn't be that distracting.) The brand is the Health and Wellness Executive Campus. That will be on the top of the sign and most visible. Monahan asked how it would be lit. Mr. Sullivan stated that it would be internally illuminated, similar to the Dunkin Donut's sign. Harrison asked if they would own the other businesses going that would be there. Mr. Benson stated that they will be partnering with them.

In favor: none.

In opposition (with concerns): Gayle Matson, 7 Garvins Falls Road located directly across the street from club. She wanted to know if this sign would block their exiting Garvins Falls Road. Carley showed her the plan. She doesn't oppose the sign or their business; she just wanted to be sure there was a safe way to exit. Walker explained the requirement for visibility. Mr. Sullivan showed her the plan and explained the entrance/exit as it will be built.

Code: no comments.

DECISION: Monahan asked Craig Walker who was asking for the signage, the Red Blazer or the fitness facility. Craig stated that the fitness facility was asking. What would happen if The Red Blazer leaves? Do the new owners have a say? Walker explained what he thought would happen. The variance will not run with the land of The Red Blazer. Which abutters were notified? (Anyone within 300 feet, of the Red Blazer property, was notified and all direct abutters were notified by certified mail.) Parker asked what is to prevent any of those businesses that are on that road, or any business for that matter, to request off premises signage. Are we opening up something? Is there something substantial that makes this unique? What about other businesses down Garvins Falls Road. Will this set a precedent? Carley spoke of site sign aspect. The Board has encountered this once before for the Mariott. The applicant argued that the nature of their business was what required them to be visible. Is this the same? Would any business be able to put a sign out at the end of their street? Monahan said that the entrance of Garvins Falls Road is unique due to the 45 degree turn. Carley do they meet the criteria? Parker questioned if there was something unique about that location. He is struggling with that question. Carley felt that the case they made is that Garvins Falls Road is a 45 degree angle. The City is asking them to put in a turning lane. Parker felt that you could see the road. Monahan was struggling with uniqueness of the property. He heard volume of out of town people. Harrison stated that the Board is being asked to give a variance on a property that the applicants do not own.

Carley stated that it is not so much who is located in there, but that they are drawing people there. Harrison felt it was unique as they do not own the property. Carley stated that the hardship has to be on the Executive Health facility. Does their hardship justify an off premises sign? It is an existing facility on primarily a residential street. Parker stated that the old fitness center that previously occupied the property was very active in its time. Once people attend, they know where to find it.

Walker stated that the State of NH Lottery Commission had an off premises sign, but it was through a licensing agreement with the City on a right of way. That sign was removed when the intersection was redone.

A motion to approve was made by Monahan, seconded by Wallner and passed by a 3-2, with Parker and Harrison in the minority. Monahan felt that the hardship of the intersection makes it unique; the volume and potential nature of more people at that facility.

#### OTHER BUSINESS

December 2013 Minutes: Motion to approve the Minutes was made by Harrison, seconded by Parker, passed by a unanimous vote.

A TRUE RECORD ATTEST,

Rose M. Fife, CLERK  
ZONING BOARD OF ADJUSTMENT